

## American Express Card Acceptance Addendum to Agreement

**1. Addendum.** Notwithstanding anything to the contrary in your Agreement (as defined below) with us, if you elect to accept American Express Cards under the Agreement, you acknowledge and agree that you will do so through a direct agreement with us and the additional terms and conditions set forth in this American Express Addendum to the Agreement (this “**Addendum**”) shall apply.

This Addendum supplements, and is hereby made a part of, the agreements among Client, Processor, and Bank, contained in the Merchant Processing Application and the Program Guide (also known as the Merchant Services Program Terms and Conditions), and the Schedules thereto and documents incorporated therein, each as amended from time to time, which collectively constitute the agreement among the parties (“**Agreement**”). The Agreement (as supplemented by this Addendum) governs your acceptance of American Express Cards under a direct agreement with us. This Addendum should be read in conjunction with the Agreement. Capitalized terms not defined in this Addendum have the meanings set forth in the Agreement. If there is a conflict between the terms of this Addendum and the terms of the Agreement, the terms of this Addendum will control. Except as expressly set forth herein, the Agreement is hereby ratified in all respects and shall remain in full force and effect.

American Express Card acceptance services are provided to you by Processor and not Bank. Bank is not a party to this Addendum, and you acknowledge that Bank is not liable to you with respect to American Express Card acceptance services.

**2. Card Descriptions.** Card Descriptions under the Agreement (which may be set forth in Section 1.1 of the Program Guide) are supplemented by the following terms and conditions:

**Card Descriptions.** At the point of sale, the Card must be carefully examined to determine whether it is a legitimate and valid Card and not visibly altered or mutilated. The name of the Card (American Express) should appear in bold letters on the Card. The following is a description of the authorized American Express Card design:

American Express:

- All American Express Card Numbers start with “37” or “34.” The Card number appears embossed on the front of the Card. Embossing must be clear, and uniform in sizing and spacing. Some Cards also have the Card Number printed on the back of the Card in the signature panel. These numbers, plus the last four digits printed on the Sales Draft, must match.
- Pre-printed Card Identification (CID) Numbers must always appear above the Card Number on either the right or left edge of the Card.
- Only the person whose name appears on an American Express Card is entitled to use it. Cards are not transferable.
- Some Cards contain a holographic image on the front or back of the plastic to determine authenticity. Not all American Express Cards have a holographic image.
- Some Cards have a chip on which data is stored and used to conduct a transaction.
- The signature on the back of the Card must match the Cardholder’s signature on the Credit Draft, and must be the same name that appears on the front of the Card. The signature panel /must not be taped over, mutilated, erased or painted over. Some Cards also have a three-digit Card Security Code (CSC) number printed on the signature panel.

**3. Refunds/Exchanges.** Your obligations under the Agreement regarding limiting refunds or exchanges or imposing other specific conditions for Card sales (which may be set forth in Section 1.5. (Special Terms) of the Program Guide) are clarified by the terms set

forth below:

If you limit refunds or exchanges or impose other specific conditions for Card sales, you must provide proper disclosure to the Cardholder at the time of transaction in accordance with applicable law. If applicable, the words “No Exchange, No Refund,” etc. must be clearly printed (in 1/4" letters) on the Sales Draft near or above the Cardholder’s signature. The Cardholder’s copy of the Sales Draft, as well as your copy, must clearly display this information near or above the Cardholder’s signature. Applicable disclosures may vary by transaction type.

**4. Delayed Delivery or Deposit Balance Transactions.**

Your obligations under the Agreement regarding Delayed Delivery or Deposit Balance transactions (which may be set forth in Section 1.6 of the Program Guide) are supplemented by the following terms and conditions for American Express:

Advance Payment Charges for American Express Transactions.

An advance payment Charge is a Charge for which full payment is made in advance of you providing the goods and/or rendering services to the Cardholder and such Charges carry higher risk. American Express may withhold settlement for part or all of such Charges until it is determined that the risk has diminished.

You must follow the procedures below if you offer Cardholders the option or require them to make advance payment Charges for the following types of goods and/or services:

- Custom-orders (e.g., orders for goods to be manufactured to a customer’s specifications),
- Entertainment / ticketing (e.g., sporting events, concerts, season tickets).
- Tuition, room and board, and other mandatory fees (e.g., library fees) of higher educational institutions.
- Airline tickets, vehicle rentals, rail tickets, cruise line tickets, lodging, travel-related services (e.g., tours, guided expeditions).
- For an advance payment Charge, you must:
- State your full cancellation and refund policies, clearly disclose your intent and obtain written consent from the Cardholder to bill the Card for an advance payment Charge before you request an Authorization. The Cardholder’s consent must include his or her agreement to all the terms of the sale (including price and any cancellation and refund policies), and a detailed description and the expected delivery date of the goods and/or services to be provided (including, if applicable, expected arrival and departure dates).
- Complete a Sales Draft. If the advance payment Charge is a Card Not Present Charge, you must also: ensure that the Sales Draft contains the words “Advance Payment;” and within twenty-four (24) hours of the Charge being incurred, provide the Cardholder written confirmation (e.g., email or facsimile) of the advance payment Charge, the amount, the confirmation number (if applicable), a detailed description and expected delivery date of the goods and/or services to be provided (including expected arrival and departure dates, if applicable) and details of your cancellation/ refund policy.

If you cannot deliver goods and/or services (e.g., because custom-ordered merchandise cannot be fulfilled), and if alternate arrangements cannot be made, you must immediately issue a Credit for the full amount of the advance payment Charge which cannot be fulfilled.

In addition to other Chargeback rights, a Chargeback may be exercised for any disputed advance payment Charge or portion thereof if the dispute cannot be resolved in your favor based upon unambiguous terms contained in the terms of sale to which you obtained the Cardholder’s written consent.

## **5. Recurring Transaction/Preauthorized Order Regulations.**

Your obligations under the Agreement with respect to Recurring Transaction and Preauthorized Order Regulations (which may be set forth in Section 1.7. of the Program Guide) are clarified by the terms set forth below:

If we or you have terminated the Agreement, you may not submit authorization requests or sales data for recurring transactions that are due after the termination date of the Agreement, and you must inform Cardholders for which you have submitted the recurring transactions that you no longer accept the Card.

You must obtain an Authorization for each transaction and write "Recurring Transaction" (or, "P.O." for MasterCard transactions/ "Signature on File" for American Express transactions) on the Sales Draft in lieu of the Cardholder's signature. A positive authorization response for one recurring transaction Card Sale is not a guarantee that any future recurring transaction authorization request will be approved or paid.

For American Express recurring transactions, you should periodically verify with Cardholders that their information (e.g., Card number, expiration date, billing address) is still accurate. This will improve the likelihood of obtaining an approval to an Authorization request.

The method to secure consent for recurring Charges must contain a disclosure that you may receive updated Card account information from the Issuer. You must retain evidence of consent to receive updated Card account information from the Issuer for twenty-four (24) months from the date you submit the last recurring billing Charge. If you offer Cardholders the option to make recurring billing Charges, you must:

- Ensure that your process for cancellation of recurring billing is simple and expeditious;
- Clearly and conspicuously disclose all material terms of the option, including, if applicable, the fact that recurring billing will continue until the option is cancelled by the Cardholder;
- Offer their American Express customers the option to receive written notification for the recurring transaction(s) at least (10) ten days prior to submitting, or any time the Charge amount exceeds a maximum amount that has been set by the Cardholder;
- Within twenty-four (24) hours of incurring the first recurring billing Charge, provide the Cardholder written confirmation (e.g., email or facsimile) of such Charge, including all material terms of the option and details of your cancellation/refund policy; and
- Where the material terms of the option change after submission of the first recurring billing Charge, promptly notify the Cardholder in writing of such change and obtain the Cardholder's express written consent to the new terms prior to submitting another recurring billing Charge

The cancellation of an American Express Card constitutes immediate cancellation of that Cardholder's consent for recurring Charges. American Express will not have any liability from such cancellation. If an American Express Card is cancelled or a Cardholder withdraws consent to recurring Charges, you are responsible for arranging another form of payment with the Cardholder.

**6. Customer Activated Terminals.** Your obligations under the Agreement with respect to Customer Activated Terminals and Self-Service Terminals (which may be set forth in Section 1.12 of the Program Guide) are supplemented by the following terms and conditions:

Prior to conducting Customer Activated Terminal ("CAT") transactions or Self-Service Terminal transactions you must contact us for approval and further instructions, rules and requirements that apply to CAT and Self-Service Terminal transactions. Failure to do so could result in additional charges or termination of the Agreement.

### Customer Activated Terminals for American Express Transactions

Sales Drafts for Charges for purchases at your Customer Activated Terminals (CATs) must include:

- Full Magnetic Stripe data stream or chip Card data in all Authorization requests, and;

- CAT indicator on all Authorization requests and Submissions.

American Express will not be liable for actual or alleged fraudulent Charges occurring through Customer Activated Terminals (CAT) and will have the right to Chargeback for those Charges.

**7. Displays and Advertising.** Your obligations under the Agreement with respect to Displays and Advertising (which may be set forth in Section 1.13 of the Program Guide) are supplemented by the following terms and conditions:

American Express: If you elected to accept the American Express Card on your Application, whenever payment methods are communicated to customers, or when customers ask what payments are accepted, you must indicate your acceptance of the American Express Card and display the American Express Marks (including any Card application forms provided to you) as prominently and in the same manner as you do for any other Card or payment products. You must not use the American Express Marks in any way that injures or diminishes the goodwill associated with the American Express Marks, nor (without prior written consent from us) indicate that American Express endorse your goods or services. You shall only use the American Express Marks as permitted by the Agreement and shall cease using the American Express Marks upon termination of the Agreement.

American Express sublicense to Use American Express Marks. You shall only use the American Express Marks as reasonably necessary to perform your obligations under the Agreement. The guidelines listed below apply to the Merchant's use of the American Express "Blue Box" logo.

- The "Blue Box" logo must always be shown in the pre-approved "American Express blue" or, in one- or two-color communications, or black.
- The space around the "Blue Box" must equal at least 1/3 the size of the box.
- The "Blue Box" logo minimum size is 3/8" and 1/2" is the preferred size.
- A minimum distance of 1-1/2 times the size of the "Blue Box" must be allowed between the "Blue Box" logo and another Mark.
- For additional guidelines on the use of the American Express Marks, you can visit the American Express website at [www.americanexpress.com/decals](http://www.americanexpress.com/decals).
- You must remove American Express Marks from your website and wherever else they are displayed upon termination of the Agreement or if you do not elect to accept or are not authorized to accept American Express Cards.

**8. Suspect Transactions.** Additional factors to consider in connection with the Agreement with respect to Suspect Transactions (which may be addressed in Section 2 of the Program Guide) are as follows:

Ask yourself, does the Customer:

- frequently make purchases and then return goods for cash?
- use a prepaid Card to purchase other prepaid Cards?
- use a large numbers of prepaid Cards to make purchases?

Ask yourself, does the Card:

- have an altered Magnetic Stripe?

**9. Sales/Credit Drafts.** Your obligations under the Agreement with respect to Information Required for Completion of Sales Drafts and Credit Drafts (which may be covered under Section 3.1 of the Program Guide) are supplemented by the following terms and conditions:

**Sales Drafts for American Express Transactions.** You must create a Sales Draft for every Charge. For each Charge submitted electronically, you must create an electronically reproducible Sales Draft. The Sales Draft (and a copy of the customer's receipt) must disclose your return and/or cancellation policies.

If the Cardholder wants to use different Cards for payment of a purchase, you may create a separate Sales Draft for each Card used. However, if the Cardholder is using a single Card for payment of a

purchase, you shall not divide the purchase into more than one Charge, nor shall you create more than one Sales Draft.

- Submit the Charge to American Express directly, or through your Processor, for payment.
- Retain the original Sales Draft (as applicable) and all documents evidencing the Charge, or reproducible records thereof, for the timeframe listed in our country-specific policies.
- Provide a copy of the Sales Draft to the Cardholder.

You may be able to create more than one Sales Draft if the purchase qualifies for a delayed delivery Charge. The retention time frame for Sales Drafts is twenty-four (24) months from the date you submitted the corresponding Charge to us. Pursuant to applicable law, truncate the Card number and do not print the Card's expiration date on the copies of Sales Drafts delivered to Cardholders. Truncated Card number digits must be masked with replacement characters such as "X," "\*" or "#," and not blank spaces or numbers.

If you submit Charges on paper, you must create a Sales Draft containing all of the following required data:

- Full Card number and expiration date (pursuant to applicable law), and if available, Cardholder name.
- The date the Charge was incurred.
- The amount of the Charge, which must be the total price for the purchase of goods and services (plus applicable taxes and gratuities) purchased on the Card.
- A clear description of the goods or services purchased by the Cardholder.
- An imprint or other descriptor of you name, address, Merchant Account Number and, if applicable, store number.
- The words "no refunds" if you have a no refund policy, and you return and/or cancellation policies.

**American Express No Signature Program.** You may participate in the American Express No Signature Program. The No Signature Program allows establishments not to request a signature from Cardholders on the Sales Draft. To qualify for the No Signature Program, both the establishment and each Charge must meet the following criteria:

**Establishment Criteria.** If your establishment is classified in an industry that accepts in-person Charges, then the establishment may participate in the No Signature Program with the exception of the following categories:

- Merchants who do not conduct in-person Charges (i.e., internet, mail order or telephone order).
- Prohibited transactions or illegal transactions or activity, as described elsewhere in the Agreement.
- High Risk Merchants (e.g., establishments whose business type has had historically high occurrences of fraud and disputed charges with American Express or as compared to other similarly situated merchants (or both); examples include internet electronic services or nightclubs/lounges) as determined by American Express in its sole discretion.
- Merchants placed in American Express' Fraud Full Recourse Program.

**Charge Criteria:**

- The amount or Charge must meet the threshold established in American Express' country specific policy.
- The Charge Submission must include the appropriate indicator to reflect that the Card and the Cardholder were present at the point of sale.
- The Charge Submission must include a valid approval.

Under the No Signature Program, Chargebacks will not be exercised for such Charges based solely on the establishment's failure to obtain the Cardholder's signature at the point of sale. If a disproportionate amount or a number of disputed Charges under the No Signature Program occur, you must cooperate to reduce the amount or number of disputed Charges. If such efforts fail, you may be placed in American Express

Chargeback programs, or your establishment's participation in the No Signature Program may be modified or terminated. The established threshold for charges to qualify under the No Signature Program is \$50.00 or less.

**10. Card Not Present Sales.** Your obligations under the Agreement with respect to Mail/Telephone/Internet (Ecommerce) Orders and Other Card Not Present Sales (which may be set forth in Section 3.2 of the Program Guide) are supplemented by the following terms and conditions:

**American Express Internet Charges.**

For internet orders, you must use separate Merchant Account Numbers provided to you for internet orders on all your requests for Authorization and submission of charges, provide at least one (1) month's prior written notice of any change in your internet address, and comply with any additional requirements that may be added from time to time. Additionally, if a disputed Charge arises involving a Card Not Present Charge that is an internet electronic delivery Charge, a Chargeback may be exercised for the full amount.

**Processing a Card Not Present Charge for American Express Transactions you must:**

- Submit the Charge to American Express;

For Card Not Present Charges, you must create a Sales Draft and ask the Cardholder to provide:

- Card number;
- Card expiration date;

In addition, it is recommended that you ask for:

- Name as it appears on the Card,
- Cardholder's billing address, and
- Ship-to address, if different from the billing address.

American Express will not Chargeback for such charges based solely upon a Cardholder claim that he or she did not receive the disputed goods if you have:

- Verified the address to which the goods were shipped was the Cardholder's full billing address.
- Provided proof of delivery signed by the Cardholder or an authorized signer of the Card indicating the delivery of the goods or services to the Cardholder's full billing address.

American Express will not be liable for actual or alleged fraudulent transactions over the internet and will have the right to Chargeback for those charges. For Internet Orders, you must:

- Use any separate merchant numbers (seller ID) established for your internet orders in all of your requests for Authorization and Submission of charges.
- Provide us with at least one (1) month's prior written notice of any change in your internet address.
- Comply with any additional requirements that American Express provides from time to time.

When providing Proof of Delivery, a signature from the Cardholder or an authorized signer of the Card is not required. Additionally, if a disputed Charge arises involving a Card Not Present Charge that is an internet electronic delivery Charge, American Express may exercise Chargeback for the full amount of the Charge and place you in any of its Chargeback programs.

**11. Authorizations.** Your obligations under the Agreement with respect to Authorizations (which may be set forth in Section 5 of the Program Guide) are supplemented by the following terms and conditions:

An Authorization Approval Code only indicates the availability of Credit on an account at the time the Authorization is requested. It does not warrant that the person presenting the Card is the rightful Cardholder, nor is it a promise or guarantee that you will not be subject to a Chargeback.

For American Express, you must obtain an Authorization Approval Code except for charges under a floor limit. The Authorization must



be for the full amount of the Charge except for merchants that are classified in the restaurant industry.

A positive Authorization response for American Express Non T&E transactions are good for seven (7) days, and American Express T&E transactions are good for thirty (30) days.

Do not discuss reason for decline with a Cardholder rather refer them to the customer service number on the back of the Card.

An authorization reversal may only be submitted if the transaction has not settled. Once the transaction has settled, only a Credit or refund can occur.

**12. Settlement.** The Agreement terms regarding Settlement (which may be set forth in Section 7 of the Program Guide) are clarified as follows: For the avoidance of doubt, with respect to the payments you have elected to accept on your Merchant Processing Application, you authorize us to submit Card transactions to, and receive settlement for such transactions from, the applicable Card Organizations on your behalf.

**13. Credits.** Your obligations under the Agreement with respect to Refunds/Exchanges (Credits) (which may be set forth in Section 8 of the Program Guide) are supplemented by the following terms and conditions:

Processing a Credit for American Express Transactions. These are additional requirements for a Credit for purchases or payments made on an American Express Card. To issue a Credit, you must:

1. Compare the last four digits on the Sales Draft against the Card presented (when applicable).
2. Have the Cardholder sign the Credit Draft (when applicable).
3. Provide a copy of the Credit Draft to the Cardholder.

You must not issue a Credit when there is no corresponding Charge, nor issue a Credit in exchange for cash or other consideration from a Cardholder. You must submit all Credits under the establishment where the Credit originated. A Credit must be issued in the currency in which the original Charge was submitted to us. You must issue Credits to the Card used to make the original purchase; however, if the Credit is for the return of a gift by someone other than the Cardholder who made the original purchase, apply your usual refund policy.

If the Cardholder indicates that the Card on which the purchase was originally made is no longer active or available, do the following:

- For all Cards except Prepaid Cards, advise the Cardholder that you must issue the Credit to that Card. If the Cardholder has questions, advise him or her to call the customer service number on the back of the Card in question.
- If the inactive or unavailable Card is a Prepaid Card, apply your usual refund policy for returns.

If you issue a Credit, American Express will not refund the discount or any other fees or assessments previously applied on the corresponding Charge. The discount on Chargebacks will not be refunded.

Your return and cancellation policies must be fair and clearly disclosed at the time of sale in compliance with applicable law. Your policies must be conveyed to the Cardholder prior to completion of the Charge and printed on a copy of a receipt or Sales Draft. Your refund policy for purchases on the American Express Card must be at least as favorable as your refund policy for purchases made with other payment products or other payment methods.

#### Return Policy recommendations.

Provide clear return instructions for your customers, including the following information:

- Customer service telephone number.
- Reference number for the return.
- Expected processing time for the Credit.
- Return address, preferably on a pre-formatted shipping label (if applicable).

You must submit all Credits to us within seven (7) days of determining that a Credit is due.

#### Cancellation Policy Recommendations.

- Provide document cancellation policy and terms and conditions on the contract the Cardholder signs, or on your website, as applicable.
- Provide Cardholder with a cancellation number that can be tracked in your records.

#### American Express Return Policy for Prepaid Products.

If your return policy for the purchase of prepaid products is different from your standard return policy, you must ensure that such prepaid product-specific return policy is clearly disclosed to the Cardholder at the time of purchase in accordance with applicable law and also coded to print on all receipts and copies of Sales Drafts you provide to Cardholders.

#### **14. Special Provisions for American Express.**

The Operating Procedures set forth in the Program Guide are amended by the addition of the following Special Provisions for American Express, which apply to American Express Card acceptance and American Express Card Transactions under the Agreement:

**14.1 Card Acceptance.** If you elect to accept American Express Cards under the Agreement, You must accept the American Express Card as payment for goods and services sold (other than those goods or services identified under "Prohibited Uses of the American Express Card" below), or (if applicable) for charitable contributions made, at all of your establishments, except as expressly permitted by applicable law. You are jointly and severally liable for the obligations of your establishments under the Agreement.

**14.2 Arbitration Agreement for Claims Involving American Express.** In the event that you or we are not able to resolve a Claim this Section 14.2 explains how Claims may be resolved through arbitration. You or we or American Express may elect to resolve any Claim by binding individual arbitration. Claims will be decided by a neutral arbitrator.

If arbitration is elected by any party to resolve a Claim, the parties understand and agree that neither you nor we nor American Express will have the right to litigate or have a jury trial on that Claim in court. Further, you, we, and American Express understand and agree that the parties will not have the right to participate in a class action or in a representative capacity or in a group of persons alleged to be similarly situated pertaining to any Claim subject to arbitration under the Agreement. Arbitrator's decisions are final and binding, with very limited review by a court, and once confirmed by a court of competent jurisdiction, an arbitrator's final decision on a Claim is generally enforceable as a court order. Other rights you, we, or American Express would have in court may also not be available in arbitration.

i. Initiation of Arbitration. Claims may be referred to either JAMS or AAA, as selected by the party electing arbitration. Claims will be resolved pursuant to this Section 14.2 and the selected arbitration organization's rules in effect when the Claim is filed, except where those rules conflict with the Agreement. Contact JAMS or AAA to begin an arbitration or for other information. Claims may be referred to another arbitration organization if all parties agree in writing, if [American Express or we, on one hand, selects the organization and you, on the other hand,] select the other within 30 days thereafter or if an arbitrator is appointed pursuant to section 5 of the Federal Arbitration Act, 9 U.S.C. §§ 1-16 (FAA). Any arbitration hearing will take place in New York, NY.

ii. Limitations on Arbitration. If any party elects to resolve a Claim by arbitration, that Claim will be arbitrated on an individual basis. No Claim is to be arbitrated on a class or purported representative basis or on behalf of the general public or other persons allegedly similarly situated. The arbitrator's authority is limited to Claims between you, us, and American Express. An arbitration award and any judgment confirming it will apply only to the specific case brought by you, us or American Express and cannot be used in any other case except to enforce the award as between you, us and American Express. This prohibition is intended to, and does, preclude you from participating in any action by any trade association or other organization against American Express. Notwithstanding any other provision in this Section 14.2, if any

portion of these Limitations on Arbitration set forth in this Section 14.2 (ii) is found invalid or unenforceable, then the entire Section 14.2 (other than this sentence) will not apply, except that you, we, and American Express do not waive the right to appeal that decision.

iii. Previously Filed Claims/No Waiver. You, we, or American Express may elect to arbitrate any Claim that has been filed in court at any time before trial has begun or final judgment has been entered on the Claim. You, we, or American Express may choose to delay enforcing or to not exercise rights under this Section 14.2, including the right to elect to arbitrate a claim, without waiving the right to exercise or enforce those rights on any other occasion. For the avoidance of any confusion, and not to limit its scope, this Section 14.2 applies to any class-action lawsuit relating to the “Honor All Cards,” “non-discrimination,” or “no steering” provisions of the American Express Merchant Regulations, or any similar provisions of any prior American Express Card acceptance agreement, that was filed against American Express prior to the effective date of the Agreement to the extent that such claims are not already subject to arbitration pursuant to a prior agreement between Merchant and American Express.

iv. Arbitrator’s Authority. The arbitrator will have the power and authority to award any relief that would have been available in court and that is authorized under the Agreement. The arbitrator has no power or authority to alter the Agreement or any of its separate provisions, including this Section 14.2.

v. Split Proceedings for Equitable Relief. You, we, or American Express may seek equitable relief in aid of arbitration prior to arbitration on the merits if necessary to preserve the status quo pending completion of the arbitration. This Section 14.2 shall be enforced by any court of competent jurisdiction.

vi. Small Claims. American Express will not elect arbitration for any Claim you properly file in a small claims court so long as the Claim seeks individual relief only and is pending only in that court.

vii. Governing Law/Arbitration Procedures/Entry of Judgment. This Section 14.2 is made pursuant to a transaction involving interstate commerce and is governed by the FAA. The arbitrator shall apply New York law and applicable statutes of limitations and honor claims of privilege recognized by law. The arbitrator shall apply the rules of the arbitration organization selected, as applicable to matters relating to evidence and discovery, not federal or any state rules of procedure or evidence, provided that any party may ask the arbitrator to expand discovery by making a written request, to which the other parties will have 15 days to respond before the arbitrator rules on the request. If your Claim is for \$10,000 or less, you may choose whether the arbitration will be conducted solely based on documents submitted to the arbitrator, through a telephonic hearing, or by an in-person hearing under the rules of the selected arbitration organization. At the timely request of a party, the arbitrator will provide a written opinion explaining his/her award. The arbitrator’s decision will be final and binding, except for any rights of appeal provided by the FAA. Judgment on an award rendered by the arbitrator may be entered in any state or federal court in the federal judicial district where your headquarters or your assets are located.

viii. Confidentiality. The arbitration proceeding and all information submitted, relating to or presented in connection with or during the proceeding, shall be deemed confidential information not to be disclosed to any person not a party to the arbitration. All communications, whether written or oral, made in the course of or in connection with the Claim and its resolution, by or on behalf of any party or by the arbitrator or a mediator, including any arbitration award or judgment related thereto, are confidential and inadmissible for any purpose, including impeachment or estoppel, in any other litigation or proceeding; provided, however, that evidence shall not be rendered inadmissible or non-discoverable solely as a result of its use in the arbitration.

ix. Costs of Arbitration Proceedings. You will be responsible for paying your share of any arbitration fees (including filing,

administrative, hearing or other fees), but only up to the amount of the filing fees you would have incurred if you had brought a claim in court. American Express will be responsible for any additional arbitration fees. At your written request, American Express will consider in good faith making a temporary advance of your share of any arbitration fees, or paying for the reasonable fees of an expert appointed by the arbitrator for good cause.

x. Additional Arbitration Awards. If the arbitrator rules in your favor against American Express for an amount greater than any final settlement offer American Express made before arbitration, the arbitrator’s award will include: (1) any money to which you are entitled as determined by the arbitrator, but in no case less than \$5,000; and (2) any reasonable attorneys’ fees, costs and expert and other witness fees incurred by you.

xi. Definitions. For purposes of this Section 14.2 only, (i) “American Express” includes its Affiliates, licensees, predecessors, successors, or assigns, any purchasers of any receivables, and all agents, directors, and representatives of any of the foregoing, (ii) “You” includes your Affiliates, licensees, predecessors, successors, or assigns, any purchasers of any receivables and all agents, directors, and representatives of any of the foregoing, and (iii) “Claim” means any allegation of an entitlement to relief, whether damages, injunctive or any other form of relief, against American Express or any other entity (including you or us) that American Express has the right to join, including any allegation involving a transaction using an American Express product or network or regarding an American Express policy or procedure.

14.3 Treatment of the American Express Brand. Except as expressly permitted by applicable law, you must not:

- indicate or imply that you prefer, directly or indirectly, any other payment products over the Card,
- try to dissuade Cardholders from using the Card,
- criticize or mischaracterize the Card or any of American Express’ services or programs,
- try to persuade or prompt Cardholders to use any other payment products or any other method of payment (e.g., payment by check),
- impose any restrictions, conditions, disadvantages or fees when the Card is accepted that are not imposed equally on all other payment products, except for electronic funds transfer, or cash and check,
- suggest or require Cardholders to waive their right to dispute any transaction,
- engage in activities that harm the American Express business or the American Express Brand (or both),
- promote any other payment products (except your own private label card that you issues for use solely at your establishments) more actively than you promote the Card, or
- convert the currency of the original sale transaction to another currency when requesting Authorization or submitting transactions (or both).

You may offer discounts or in-kind incentives from your regular prices for payments in cash, ACH funds transfer, check, Debit Card or Credit Card, provided that (to the extent required by applicable law): (i) you clearly and conspicuously disclose the terms of the discount or in-kind incentive to your customers, (ii) the discount or in-kind incentive is offered to all of your prospective customers, and (iii) the discount or in-kind incentive does not differentiate on the basis of the issuer or, except as expressly permitted by applicable law and Card Organization (e.g., Visa, MasterCard, Discover, JCB, American Express). The offering of discounts or in-kind incentives in compliance with the terms of this section will not constitute a violation of the provisions set forth in the above section “Treatment of the American Express Brand.”

14.4 Prohibited Uses of the American Express Card. You must not accept the Card for any of the following:

- adult digital content sold via internet electronic delivery,
- amounts that do not represent bona fide sales of goods or services (or, if applicable, amounts that do not represent bona fide charitable contributions made) at your establishments. For example, purchases at your establishments by your owners (or their family members) or employees contrived for cash flow purposes, or payments that you have accepted in order to advance cash to Cardholders in connection with the transaction,
- amounts that do not represent bona fide, direct sales by your establishment to Cardholders made in the ordinary course of your business,
- cash or cash equivalent (e.g., gold, silver, platinum, and palladium bullion and/or bars). Collectible coins and jewelry are not prohibited,
- charges that the Cardholder has not specifically approved,
- costs or fees over the normal price of the goods or services (plus applicable taxes) that the Cardholder has not specifically approved,
- damages, losses, penalties, or fines of any kind,
- gambling services (including online gambling), gambling chips, gambling credits, or lottery tickets,
- unlawful/illegal activities, fraudulent business transactions or when providing the goods or services is unlawful/illegal (e.g. unlawful/illegal online internet sales of prescription medications or controlled substances; sales of any goods that infringe the rights of a rights-holder under laws applicable to us, you, or the Cardholder; online child pornography),
- overdue amounts or amounts covering returned, previously dishonored or stop-payment checks (e.g., where the Card is used as a payment of last resort),
- sales made by third parties or entities conducting business in industries other than yours.
- You must not use the Card to verify a customer's age.

**14.5 American Express Transaction Data.** The transaction data you collect to facilitate the Charge must be or have been provided directly to you by the Cardholder. You must not accept or have accepted transaction data from, nor shall you provide or have provided transaction data to, any third parties other than your covered parties (as defined in the Data Security Operating Policy (DSOP)). If you fail to comply with this requirement, in addition to other rights and remedies regarding “monitoring,” you may be charged a fee as indicated on the Merchant Processing Application, we may suspend Card acceptance privileges at your establishments, or terminate the Agreement. Where Cardholders pay you using payment or “e-wallet” accounts (which Cardholders may have created by providing Cardholder information when the account was established), the transaction data collected to facilitate the Card Not Present Charge has already been provided directly by the Cardholder. You are not required to have the Cardholder re-enter the transaction data. All information required by American Express evidencing one or more transactions, including information obtained at the point of sale, information obtained or generated during Authorization and Submission, and any Chargeback.

**14.6 Treatment of American Express Cardholder Information.** You acknowledge that any and all American Express Cardholder information is confidential and the sole property of the Issuer, American Express or any of its Affiliates. Except as otherwise specified in the Agreement, you must not disclose Cardholder information, nor use nor store it, other than to facilitate transactions at your establishments in accordance with the Agreement.

**14.7 Disclosure and Use of Data Collected Under Agreement.** We may disclose to American Express data and information that you provide on your Application and that we collect as part of performing American Express payment processing services or transaction related services including information about you. American Express may use the information that you provide in the Application at the time of setup

to screen and/or monitor you in connection with Card marketing and administrative purposes. American Express also may use such information to perform its responsibilities in connection with American Express Card acceptance, promote the American Express Network, perform analytics and create reports, and for any other lawful business purposes, including marketing purposes. American Express may otherwise use and share your information for business purposes and as permitted by Applicable Law. American Express uses reasonable administrative, technical and physical security measures to protect Program Merchant information consistent with the sensitivity of the information.

**14.7.1 Consent for American Express to Contact You by Phone, eMail, Text or Facsimile.** American Express may use the information you provide in the Application (as such information may be updated) to call you or send you communications or materials via email, SMS, text or facsimile regarding American Express products, services and resources available to you. You consent and agree to receive autodialed, automated and/or prerecorded calls and communications (which may include SMS or text messages) at the telephone number(s) you have provided. If you provide a fax number, you consent and agree to receiving fax communications from American Express. In connection with the foregoing, you understand that the calls made or communications sent to you by American Express may be subject to charges or fees by your telecommunications or other applicable service provider that are your responsibility to pay. You understand that your consent under this Section 14.7.1 is not a condition of purchasing or receiving any product or service or entering into the Agreement.

**Opt-Out:** You may opt-out of receiving marketing related communications and materials from American Express by calling Processor at the Customer Service Number stated the section of your Program Guide that identifies Addresses for Notices. If you have opted-out, you may still receive messages or communications from American Express related to important information about your account.

**14.8 Conversion to a Direct Relationship with American Express.** You acknowledge and agree that upon written notice from us, you will be converted to a direct American Express Card acceptance relationship with American Express if and when the annual American Express Card charges that you submit under the Agreement are greater than \$1,000,000. You agree that , upon conversion, (i) you will be bound by American Express’ then-current Card Acceptance Agreement with respect to American Express Transactions; (ii) American Express will set pricing and other fees payable by you for American Express Card acceptance; and (iii) you will no longer be able to submit American Express Card transactions under the Agreement, but the Agreement will continue in full force and effect with respect to other payments and services you elected to receive on your Application.

**14.9 No Assignment of Payments.** You acknowledge and agree that you shall not assign to any third party any payments due to you under the Agreement as the result of American Express Card transactions, and all indebtedness arising from American Express Card charges will be for bona fide sales of goods and services (or both) at your establishments and free of liens, claims, and encumbrances other than ordinary sales taxes; provided, however, that you may sell and assign future transaction receivables to us, our Affiliates and/or any other funding source that partners with us or our Affiliates.

**14.10 Third Party Beneficiary Rights.** American Express is a direct and intended third-party beneficiary of the Agreement, and may enforce any terms of the Agreement that apply to American Express, including American Express Card acceptance and transaction processing, directly against you.

**14.11 Your Right to Opt Out of American Express Card Acceptance.** You may opt out of accepting American Express Cards at any time without directly or indirectly affecting your rights to accept any other payment products.

**14.12 Collections from American Express Cardholder.** You may not bill or collect from any American Express Cardholder for any purchase or payment on the American Express Card unless a Chargeback has



been exercised, you have fully paid for such Charge, and you otherwise have the right to do so.

**14.13 Completing a Transaction at the Point of Sale.** All valid transactions begin with a Cardholder's purchase at the point of sale. Whether the physical Card is used to facilitate a Card present Charge, or the Cardholder provides his or her Cardholder Information over the phone, via mail order, or the internet, the transaction must not be completed without the Card and/or information provided by the Cardholder. To accept the Card for charges at your establishments, at the point of sale, you must:

- Clearly and conspicuously, disclose all material terms of sale prior to obtaining an Authorization, and
- Clearly and conspicuously inform Cardholders at all points of interaction (e.g., sales conducted in person, over the internet, mobile or via mail or telephone order) what Entity is making the sales offer, so that the Cardholder can clearly distinguish you from any other party involved in the interaction (e.g., a vendor of goods or provider of services you may engage, or another merchant seeking to conduct business with the Cardholder).

The transaction data you collect to facilitate the Charge must be or have been provided directly to you by the Cardholder. You must not accept or have accepted transaction data from, nor shall you provide or have provided transaction data to, any third parties other than your covered parties (as defined in the Data Security Operating Policy (DSOP)). If you fail to comply with this requirement, you may be charged non-compliance or other fees as indicated on the Merchant Processing Application and/or have your Card acceptance privileges at required your establishments suspended or disintitiled.

**14.14 In Person Charges.** In-person charges refer to charges in which the Card and Cardholder are present at the point of sale. An example of this is when a Cardholder presents a Card to the merchant at a retail store. For all in-person charges, the Card must be presented. There are several ways in which you can conduct the in-person Charge. The steps you take vary according to how you go about conducting both types of in-person charges:

**14.15 Electronic charges or key-entered charges.** When providing proof of delivery, a signature from the Cardholder or an authorized signer of the Card is not required.

**14.16 Magnetic Stripe Card Charges.** When presented with a Card at the point of sale you must:

- Verify that the customer is the Cardholder (Cards are not transferable).
- Capture Magnetic Stripe data by swiping the Card (unless the Charge was already initiated by waving the contactless chip Card in close proximity to the point of sale system).
- Match the Card number and the expiration date on the Card to the same information on the Sales Draft.
- Ensure the name that prints on the Sales Draft matches the name on the front of the Card except when the Cardholder name is not captured on the Sales Draft or for prepaid Cards that do not show a name on their face.
- Validate the Card's presence by taking an imprint of the Card (the imprint is for your records). Failure to validate the Card's presence by taking an imprint of the Card can render merchant liable for Chargebacks if the Cardholder disputes the Charge, except when the Cardholder name is not captured on the Sales Draft or for prepaid Cards that do not show a name on their face.

**14.17 American Express Mobile Contactless Charges.** When presented with a contactless-enabled mobile phone, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Capture Magnetic Stripe or chip Card data by waving the contactless-enabled mobile phone in close proximity to the contactless reader.
- Compare the signature (when obtained) on the Sales Draft with the signature on the companion physical Card or a valid form of formal identification (e.g. driver's license). You must not record or

store the information from such formal identification in any way.

If a mobile contactless transaction cannot be processed for any reason, you should require that the Cardholder provide the companion physical Card to complete the transaction.

**14.18 American Express Contact Chip Charges.**

When presented with a chip Card to be inserted into a chip Card reader, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Capture chip Card data by inserting the Card into the chip Card reader, the point of sale system will advise Cardholders to enter their PIN (a chip and PIN Charge) or sign for the Charge (a chip and signature Charge).
- Chip and PIN Charges. Cardholders will enter their PIN into the point of sale system using the keypad. If the chip and PIN Charge are unable to be completed due to a technical problem, the point of sale system will show an error message.
- Chip and signature Charge. Failure to obtain a signature, when required, can render you liable for Chargebacks if the Cardholder disputes the Charge. Obtaining a signature may not be required if merchant's establishment and the Charge qualify for the No Signature Program.

**14.19 American Express Contactless Chip Charges.** When presented with a chip Card to be read via a contactless reader and the Charge qualifies for the No Signature Program, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Capture Magnetic Stripe or chip Card data using the contactless reader.
- For charges that do not qualify under the No Signature Program, follow the relevant Card acceptance procedures outlined in either:
  - "Magnetic Stripe Card Charges," or
  - "Contact Chip Card Charges."

**14.20 American Express Key-Entered Charges.** If a Card cannot be read electronically, in addition to the "Magnetic Stripe Card Charges" requirements, you must:

- Key enter the data.
- Validate the Card's presence by taking an imprint of the Card (the imprint is for your records). Failure to validate the Card's presence by taking an imprint of the Card can render you liable for Chargebacks if the Cardholder disputes the Charge.

**14.21 Keyed No Imprint for American Express Transactions.**

- Your establishments may be eligible to participate in the American Express "Keyed No Imprint Program." The "Keyed No Imprint Program" allows you to submit in-person charges without taking an imprint of the Card if you meet the following Charge criteria:
  - All Cards qualify for the "Keyed No Imprint Program."
  - The Charge must be key-entered.
  - The Charge Submission must include the appropriate indicator to reflect that the Card and the Cardholder were present at the point of sale.
  - The Charge Submission must include a valid approval, and;
  - The CID Number must be confirmed as a positive match. Under the "Keyed No Imprint Program," Chargebacks will not be exercised for such Charges based solely on the establishment's failure to obtain an imprint of the Card. If a disproportionate amount or number of disputed Charges under the "Keyed No Imprint Program" occurs, you must cooperate to reduce the number of disputed Charges. If such efforts fail, you may be placed in any of American Express' Chargeback programs or your participation in the "Keyed No Imprint Program" may be modified or terminated.

**14.22 Merchant Website Information Display Guidelines.**

- An accurate description of the goods/services offered, including

the currency type for the transaction (e.g., U.S. Dollars). Transaction currency must be in U.S. Dollars.

- Your physical address in the U.S.
- An email address and a telephone number for customer service disputes.
- Return/refund policy.
- A description of your delivery policy (e.g., No COD, No overnight).
- A description of your security practices (e.g., information highlighting security practices you use to secure transactions conducted on the internet).
- A statement of known export restrictions, tariffs, and any other regulations.

**14.23 Aggregated Charges.** If you are classified as an internet industry, you may process aggregated charges, provided the following criteria are met:

- Clearly disclose your intent and obtain written consent from the Cardholder that their purchases or refunds (or both) on the Card may be aggregated and combined with other purchases or refunds (or both) before you request an Authorization.
- Each individual purchase or refund (or both) that comprises the aggregated Charge must be incurred under the same merchant number and on the same Card.
- Obtain a pre-Authorization of no more than \$15.00
- Create a Sales Draft for the full amount of the aggregated Charge.
- The amount of the aggregated Charge must not exceed \$15 or the amount for which you obtained pre-Authorization.
- Submit each Sales Draft within our submission timeframe.
- Provide the Cardholder with an email containing the date, amount, and description of each individual purchase or refund (or both) that comprises the aggregated Charge, and the date and the amount of the aggregated Charge.

**14.24 American Express Prepaid Card Security Features.** Although there are a number of unique prepaid Cards, all prepaid Cards share similar features, except that Prepaid Cards may or may not be embossed, and the following features may appear on the front or back of the Card (or a combination of both):

- The American Express logo generally appears in the bottom right corner.
- The words PREPAID or INCENTIVE will generally be shown above the American Express logo.
- Cards pre-loaded with funds may show the dollar amount or the total points (reloadable Cards generally will not show a number).
- The CID Number will appear usually above the Card number or above the logo.
- The Card number appears on the Card.
- The valid date or expiration date appears on the Card.
- The recipient's name or company name may appear on the Card.

**14.25 American Express Processing Prepaid Cards.** Prepaid Cards are available for a variety of uses: gifting, travel, incentive, etc. All American Express prepaid Cards show the American Express "Blue Box" logo either on the face or back of the prepaid Card. Prepaid Cards may or may not be embossed. Most prepaid Cards can be used for both in-store and online purchases. Prepaid Cards are valid through the date on the Card. Simply swipe the Card at the point of sale just like any other Card. A prepaid Card must be tendered for an amount that is no greater than the funds available on the Card.

- Instruct Cardholders that, before making a purchase, they must check their remaining funds by calling the twenty-four (24) hour, toll-free number on the back of the Card.
- Because prepaid Cards are pre-funded, if you receive a decline when seeking Authorization, ask the customer to call the toll-free

number on the back of the Card to confirm that the purchase price does not exceed the available funds on the prepaid Card.

- If the prepaid Card does not have enough funds to cover the purchase price, process a split tender transaction or request an alternative form of payment.
- You must create a Sales Draft for a prepaid Card as you would any other Card.
- Be on the lookout for Suspect Transactions.

**14.26 American Express Policies and Procedures for Specific Industries.** This Section 14.26 states additional American Express policies and procedures applicable to merchants classified in specific industries. All other provisions and requirements of the Agreement apply to these merchants as well. To the extent possible, the provisions of this Section 14.26 and the other provisions of the Agreement applicable to American Express transactions shall be interpreted to give each their full effect. However, if a conflict is deemed to exist between them, then the provisions of this Section 14.26 shall govern.

**14.26.1 Auto dealers:** This section applies to merchants classified in an auto dealer industry.

The following requirements will apply to Charges for the down payment or the entire purchase price of new and used motor vehicles. You may accept the Card for down payment of a motor vehicle, subject to the following provisions:

- You must not submit a Charge for the down payment price of a used motor vehicle unless and until you have a written agreement/bill of sale signed by the Cardholder setting forth the terms of the sale, including down payment price, and your cancellation policy.
- In addition to its other Chargeback rights, American Express also has Chargeback rights for any portion of the Charge for the down payment price of a used motor vehicle which is disputed by the Cardholder, if such disputed charge cannot be resolved in your favor based upon unambiguous language contained in the written agreement/bill of sale.
- Should a Cardholder exercise his or her right to rescind the written agreement/bill of sale during any rescission period set forth in the Cardholder's agreement with you or at law, you shall submit a Credit to us promptly.
- If American Express has classified you as an auto dealer of used motor vehicles exclusively, the down payment must not exceed 50% of the full purchase price of the motor vehicle.
- If the Cardholder denies making or authorizing the Charge, American Express will have Chargeback rights for such Charge in addition to our other Chargeback rights

You may also accept the Card for the entire purchase price of a new or used motor vehicle, subject to the following provisions:

- You are classified as an auto dealer of new or new and used motor vehicles (i.e. Your dealership sells new motor vehicles exclusively or both new and used motor vehicles).
- The amount of the Charge does not exceed the total price of the motor vehicle after deduction of applicable discounts, taxes, rebates, cash down payments, and trade-in values.
- You must not submit a Charge for the entire purchase price of a new or used motor vehicle unless and until you have a written agreement/bill of sale signed by the Cardholder setting forth the terms of the sale, including purchase price, delivery date and your cancellation policy.
- In addition to other Chargeback rights, American Express also has Chargeback rights for any portion of the Charge for the entire purchase price of a new or used motor vehicle which is disputed by the Cardholder, if such disputed Charge cannot be resolved in your favor based upon unambiguous language contained in the written agreement/bill of sale.
- Should a Cardholder exercise his or her right to rescind the written agreement/bill of sale during any rescission period set forth in the Cardholder's agreement with you or at law, you shall



submit a Credit to us promptly.

- If the Cardholder denies making or authorizing the Charge and you have not transferred title or physical possession of the motor vehicle to the Cardholder, American Express will have Chargeback rights for such Charge in addition to its other Chargeback rights.

**14.26.2 Business-to-Business (B2B)/ Wholesale Distribution.** If you are classified in the business-to-business (B2B) or wholesale distribution industries, and American Express determines that you are not in the telecommunications industry, then notwithstanding the prohibition in Section XX.4, "Prohibited Uses of the Card", you may accept the Card for overdue amounts to the extent that acceptance of overdue amounts is a common practice in your industry and does not constitute an attempt to obtain payment from the Cardholder whose prior methods of payment have, in American Express' reasonable judgment, been difficult to collect or uncollectible. An indicator of such difficulty, for example, may be the fact that you have sent a customer account to collections.

To minimize your risk of a Chargeback with B2B Charges, always:

- Obtain a signature for all in-person charges. For Card Not Present Charges, obtain Proof of Delivery, and
- Maintain clear and accurate records of orders and returns.
- Notwithstanding the restriction in Section 6, you must not submit any Charge until the goods have been shipped or services have been provided to the Cardholder. To the extent that you have clearly disclosed your intentions to the Cardholder and the Cardholder agrees, then you may submit the following types of Charges to us before you ship the goods to the Cardholder:
- Charges representing deposits on custom and special orders (so long as you comply with applicable law) or goods not in inventory at the time the order is placed.
- Charges representing advance, partial, or full payment for goods that the Cardholder requests you to ship at a later date.

**14.26.3 Insurance.** This section contains provisions specific to establishments that are classified in the insurance industry. If any of your goods or services are sold or billed by independent agencies, then you must provide to American Express a list of such independent agencies and notify us of any subsequent changes in the list. American Express may use this list to conduct mailings that encourage such independent agencies to accept the Card. American Express may mention your name in such mailings, and you must provide us with a letter of endorsement or assistance as American Express may require. You must use your best efforts to encourage independent agencies to accept the Card. American Express acknowledges that you have no control over such independent agencies. From time to time, and subject to prohibited uses of the Card, American Express may establish joint marketing campaigns that promote Card acceptance specifically at your establishments or, generally, at insurance companies. A necessary purpose for which you submit Cardholder Information that is responsive to such joint marketing campaigns includes American Express' use of that information to perform back-end analyses to determine the success of such joint marketing campaigns. American Express undertakes no responsibility on your behalf for the collection or timely remittance of premiums. American Express will not be subject to any liability, under any circumstances, for any claim arising from, or related to, any insurance policy issued by you or your agencies. If the Card is accepted as payment for fixed rate cash value life insurance policies or fixed rate annuities under the Agreement, you represent and warrant to Processor that the fixed rate cash value life insurance policies and fixed rate annuities for which the Card will be accepted for premium payments are not securities requiring registration under the Securities Act of 1933.

**14.26.4 Oil/Petroleum.** If you are classified in the oil and petroleum industry, American Express may place you in the Fraud Full Recourse Program if you accept charges originating at a Customer Activated Terminal (CAT) gas pump. American Express will not exercise Chargeback up to a certain dollar amount for charges that qualify under the Oil Fraud Protection Program described below.

**Oil/Petroleum Requirements.** If you are classified in the oil and petroleum industry, you must:

- Obtain a unique Merchant Account Number for your CAT gas pump sales. If you conduct any other business at your establishment (e.g., convenience store sales, car washing services), you must obtain a unique Merchant Account Number for those lines of business.
- Submit dealer location data along with each Authorization request and each Submission file. Dealer location data consists of your business':
- dealer number (store number)
- name
- street address
- city
- postal code

**Oil/Petroleum Recommendations.** American Express has implemented several policies and fraud prevention tools to assist in combating fraud at the gasoline pump.

American Express recommends that you:

- Set a pre-Authorization request of \$100 at your CAT gas pumps.
- For higher charges such as diesel, adjust the pre-Authorization amount to accommodate the higher charges.
- Set your CAT gas pumps to shut off when they reach the pre-Authorization amount.
- Request a separate Authorization for purchases that exceed the original pre-Authorization amount.

**Oil Fraud Protection Program.** The Oil Fraud Protection Program addresses counterfeit fraud Chargebacks at fuel pump CATs. Under this program, American Express will not exercise Chargeback for the amount of the Charge up to \$100 provided that both the establishment and each Charge meet the following criteria:

- The Authorization request meets the data requirements listed under CATs.
- The Authorization request must include the correct merchant category code (MCC) for "automated fuel dispensers" (5542),
- The Issuer determines that the Card used to initiate the Charge was counterfeit, and,
- The establishment qualified for Chargeback protection under the program at the time of the Charge, as follows:

For an establishment to qualify under the Oil Fraud Protection Program, it (i) must authorize and submit Transactions under the unique Merchant Account Number (Seller ID) assigned to the establishment, and (ii) must have, in a given month, a counterfeit fraud to Charge volume ratio below 1%. An establishment whose counterfeit fraud to Charge volume ratio rises to or exceeds 1% in a given month will not qualify under the Oil Fraud Protection Program until the ratio falls below 1% for three (3) consecutive months. Notwithstanding the foregoing, the Oil Fraud Protection Program does not apply to merchants that submit one Merchant Account Number (Seller ID) consolidated charges from multiple establishments (i.e., central submitters) or to the establishments that those merchants submit on behalf of. American Express offers a variety of fraud prevention tools which may enable merchants to reduce fraud in order to qualify and retain eligibility for the program.

**14.26.5 Restaurants.** If you are classified in the restaurant or bar industry, then the following Authorization procedures apply. If the final restaurant or bar Charge is no greater than the amount for which you obtained Authorization plus 20% of that amount, no further Authorization is necessary. If the final restaurant or bar Charge is greater than the amount for which you obtained Authorization by more than 20%, you must obtain Authorization for any additional amount of the Charge that is greater than the original Authorization. When submitting the Charge, only include the initial approval.

**14.26.6 Telecommunications.** If American Express classifies you in the Telecommunications industry, notwithstanding anything to the contrary in the Agreement, American Express may place you in one or more of the following Chargeback programs:

**Partial Immediate Chargeback Program for an amount of \$50 or less; or Fraud Full Recourse Program**

- American Express may establish audit procedures determined in American Express' discretion to ensure that no charges except for recurring billing charges are submitted under the Merchant Account Number designated for recurring billing charges.
- We may request that you provide us with a list of Affiliates and the list you provide must include any agency in the geographic area where you offer any telecommunications services.

**14.26.7 Government/Utilities/Education.** This section applies to merchants classified in the government, utilities, or certain education industries (i.e. higher education, private school - kindergarten to grade 12). Customers should feel free to use all forms of payment that you accept without being penalized for choosing a particular form of payment. To promote consumer choice, you are generally prohibited from imposing any restrictions, conditions, or disadvantages when the Card is accepted that are not imposed equally on all other payment products. See "Treatment of the American Express Brand". Merchants in these specific industries may assess convenience fees on charges, provided that they comply with the other requirements of this section, as follows:

- Merchants must not impose a higher convenience fee on charges than it imposes on other payment products, except for Automated Clearing House funds transfers, cash, and checks.
- Merchants classified as government Entities, including government utilities, and privately owned utilities may assess convenience fees on all Charges.
- Merchants classified as educational institutions may assess convenience fees only on charges for tuition, room and board, school lunch payments or other mandatory fees.
- You must clearly disclose the amount of convenience fees to the customer and give the customer the opportunity to cancel the Charge if the customer does not want to pay the convenience fee.

Any explanation, verbal or written, describing why the convenience fee is being assessed, or how it is calculated, must characterize the convenience fee as an assessment to cover your administrative costs and not as an assessment to cover your cost of accepting the Card. You must obtain separate Authorizations and Approval codes for each of the principal charges and the convenience fee. Furthermore, the descriptor on the convenience fee must clearly state that it is a convenience fee (e.g., Official Payments – City of X (principal payment) and Official Payments Convenience Fee (convenience fee)). Your third-party service provider can only assess a convenience fee when it accepts the Card for the foregoing charges in compliance with the requirements of this section.

**14.26.8 Internet/Online Pharmacies.** If it is determined that you are an internet/online pharmacy merchant that accepts the Card for sales of prescription medications (as defined by applicable law) in the Card Not Present environment:

- You must be certified by the Verified Internet Pharmacy Practice Sites program of the National Association of Boards of Pharmacy ([www.nabp.net](http://www.nabp.net)), or,
- You or your authorized representative must attest that you comply with the licensing and inspection requirements of (i) U.S. federal law and the state in which you are located and (ii) each state to which you dispense pharmaceuticals.

Upon request, you must promptly provide documentation that you fulfill the foregoing requirements. Failure to provide this documentation promptly may result in suspension or disentanglement of Card acceptance privileges. Specific procedures exist for transaction processing by internet/online merchants.

**14.26.9 Online/mail order tobacco retail.** If you are classified or it is otherwise determined that you are an online or mail order (or both) tobacco or e-cigarette merchant, then you must provide the website address of the online store from which you sell your tobacco products. If your website facilitates tobacco sales, you will be required on request to provide an executed and notarized Affidavit of Compliance with Laws - Online/Mail Order Tobacco. If you fail to complete the Affidavit, Card acceptance privileges may be suspended. American Express may monitor your website.

**14.27 American Express-Excessive Disputes.** You may be subject to various fees and assessments as set forth on the Application including fees for excessive disputes. Some fees and assessments are for special products or services, while others may be applied based upon non-compliance of American Express policies and procedures. Many non-compliance fees and assessments can be avoided by correcting the actions that are causing such non-compliance.

**14.28 American Express Right to Modify or Terminate Agreement.** American Express has the right to modify the Agreement with respect to American Express Card transactions or to terminate your acceptance of American Express Card transactions and to require Processor to investigate your activities with respect to American Express Card transactions.

**15. Fees; Adjustments; Collection of Amounts Due.** The following additional terms shall apply to the parties' rights and obligations under the Agreement with respect to Fees; Adjustments; Collection of Amounts Due (which may be set forth in Section 10 of the Program Guide):

**Other Debits.** We may also debit your Settlement Account or your settlement funds in the event we are required to pay Card Organization fees, charges, fines, penalties or other assessments as a consequence of your sales activities. Such debits shall not be subject to any limitations of time specified elsewhere in the Agreement, including, without limitation the following, which we may add to or delete from this list as changes occur in the Card Organization Rules or our Operating Procedures pursuant to Section 17:

- Card Organization fees, charges, fines, penalties, registration fees, or other assessments including any fees levied against us or any amount for which you are obligated to indemnify us.
- Currency conversion was incorrectly calculated. NOTE: For Discover Network transactions, you are not permitted to convert from your local Discover Network approved currency into another currency, nor may you quote the price of a transaction in U.S. Dollars if completed in another approved currency.
- Discount Rate not previously charged.
- Reversal of deposit posted to your account in error.
- Debit for Summary Adjustment not previously posted.
- Reversal of Credit for deposit previously posted.
- Debit for Chargeback never posted to your account.
- Debit for EDC Batch error fee.
- Card Organization Merchant Chargeback/fraud monitoring fees – excessive Chargeback handling fees.
- Failure of transaction to meet Member Controller Authorization Service ("MCAS") – Cardholder account number on exception file.
- Original transaction currency (foreign) not provided.
- Travel Voucher exceeds maximum value.
- Debit and/or fee for investigation and/or Chargeback costs related to the Agreement, or for costs related to our collection activities in an amount no less than \$100.00.
- Costs arising from replacement or damage to equipment rented.
- Payment of current or past due amounts for any equipment purchase, rental or lease.

- Incorrect merchant descriptor (name and/or city, state) submitted.
- Incorrect transaction date submitted.
- Shipping and handling fees.
- Costs or expenses associated with responding to any subpoena, garnishment, levy or other legal process associated with your account in an amount no less than \$150.00.

You are solely responsible to inform us in writing if you want any fees or other adjustments to be debited from an account other than your Settlement Account.

You agree that in addition to any rights we have under the Agreement, we can offset any amounts owed to us or our Affiliates related to activity in other accounts maintained in your name or accounts guaranteed by you, any of your principals, guarantors or authorized signors. Alternatively, we may elect to invoice you for any such amounts, net due 30 days after the invoice date or on such earlier date as may be specified.

**16. Termination.** Terms applicable to the effect of termination of the Agreement (which may be set forth in Section 23 (Term; Events of Default) of the Program Guide) are clarified by the addition of the following terms and conditions:

Should you fail to notify us in writing of your request to terminate you acknowledge and agree you will continue to be charged fees pursuant to the Agreement notwithstanding non- use of your account. If you have an equipment lease, termination of the Agreement does not terminate that equipment lease.

**17. Indemnification.** You acknowledge and agree that your obligations under the Agreement to indemnify and hold us harmless from and against certain losses, liabilities, damages and expenses obligations identified in the Agreement (which maybe set forth in Section 26 (Indemnification) of the Program Guide), hereby also apply to the Card Organizations.

**18. Compliance with Law.** For the avoidance of doubt, you acknowledge and agree that in connection with your obligation under the Agreement to comply with all laws and regulations applicable to you (which may be set forth in Section 39 of the Program Guide), you will not use your merchant account and/or the Services for illegal transactions, for example, those prohibited by the Unlawful Internet Gambling Enforcement Act, 31 U.S.C. Section 5361 et seq, as may be amended from time to time, or those involving any Person listed on the U.S. Department of Treasury, Office of Foreign Assets Control, Specially Designated Nationals and Blocked Persons List (available at [www.treas.gov/ofac](http://www.treas.gov/ofac)) or the U.S. Department of State's Terrorist Exclusion List (available at [www.state.gov](http://www.state.gov)), or for the processing and acceptance of transactions in certain jurisdictions pursuant to 31 CFR Part 500 et seq. and other laws enforced by the Office of Foreign Assets Control ("OFAC") or in connection with illegal activity of any kind.

**19. Glossary.** The following definitions are added to or amended, as applicable, in the Glossary of the Agreement (which may be set forth in Section 40 of the Program Guide):

**Affiliate:** "Affiliate" of a Person means another Person that, directly or indirectly, (i) owns or controls such Person or (ii) is under common ownership or control with such Person.

**Cardholder:** Means the Person whose name is embossed on a Card and any authorized user of such Card, including the Person that has entered into an agreement establishing a Card account with an Issuer. Some Card Organizations may refer to Cardholder(s) as Card Member(s).

**Charge or Charges (or as the context requires, charge or charges):** The total price, including all applicable taxes and gratuities, for the purchase of goods or services of a merchant for which a Cardholder has signed a Sales Draft or otherwise indicated intent to pay with a Card.

**Entity:** Means a corporation, partnership, sole proprietorship, trust, association, or any other legally recognized entity or organization.

**Issuer:** The financial institution or Card Organization (or other Entity

authorized by a Card Organization) which has issued a Card to a Person.

## **20. Nonqualification for Full Service Program.**

Notwithstanding anything to the contrary in the Agreement, you understand and agree that if, based upon your anticipated Card transaction volume you do not qualify for our full service program (acceptance of American Express card Transactions pursuant to a direct agreement with us) but have otherwise been approved for accepting American Express transactions, your authorizations will be obtained from and funded by American Express. American Express will provide you with its own agreement that governs those transactions. You understand and agree that we are not responsible and assume absolutely no liability with regard to any such transactions, including but not limited to the funding and settlement of American Express transactions, and that American Express will charge additional fees for the services they provide.